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THE BEGINNINGS OF BRITISH WEST FLORIDA

In a note to the secretary at war, under date of April 18, 1763, the Earl of Egremont gave notice of the dispatch of final orders for the occupation of Florida and that portion of Louisiana lying east of the Mississippi river to which title had recently been acquired by England.¹ This significant communication marks the opening of a new stage in the historical development of the gulf region and in the history of British imperial relations; it is a significant episode, moreover, in the history of the colonial empires of Spain and France. It will be recalled that Spain's control of Florida dated back to the latter part of the sixteenth century, when she effected a permanent lodgment in that region. Her claim, except for disputes as to the northern limits of the province, remained incontestable until 1763. Her entry into the war against England in 1762, however, made inevitable the loss of some of her colonial possessions. It was in part to secure the return of Havana and the Philippines, captured by British arms near the close of the war, that Spain, in the definitive treaty of Paris February 10, 1763, relinquished all claim to Florida. By the provisions of the same instrument France withdrew her claims to the area on the left of the Mississippi and Iberville rivers, extending as far east as the Perdido river and including the river and town of Mobile.

In accordance with his commands from Egremont, therefore, General Keppel, the conqueror of Moro castle, issued orders to Colonel Prevost May 23, 1763, to proceed from Havana to relieve the Spanish garrisons at St. Augustine and Pensacola.² A similar command was dispatched at the same time to Major Robert Farmar to effect the transfer of sovereignty in the area held by the French at Mobile and its environs.³ The occupation

¹ *Calendar home office papers in the reign of George the third* (Redington ed. — London, 1878), 1: 274.

² *Mississippi provincial archives, 1763-1766* (Rowland ed. — Nashville, Tenn., 1911), 1: 127.

³ *Ibid.*, 1: 131.

of the two regions was accomplished with comparative ease, neither hostile Indians nor intriguing traders blocking the way.⁴ Nothing beyond the ordinary inconveniences incident to poor facilities in transporting the Spanish garrisons from the province appears to have disturbed the equanimity of the officers in command of the forces of occupation. Colonel Prevost arrived at Pensacola on August 6; he immediately delivered to the Spanish governor letters from the court of Spain relative to the cession and demanded the surrender of the place.⁵ His order was readily complied with, but owing to the delay in the arrival of Spanish transports the English commander was obliged to encamp his troops temporarily outside the stockade. This incident, together with the lethargy exhibited by the Spanish in loading their stores, delayed their departure until September 3, when they sailed for Vera Cruz.⁶ The fort and town of Mobile were occupied by Major Robert Farmar, with a force of two regiments on October 22, and on November 22 the French garrison at Fort Tombeckbe was relieved by a small detachment of thirty men.⁷

In the meantime the governmental problems connected with these and other recent acquisitions confronted the British ministry. The treaty of Paris, with its significant territorial readjustments, resulting in the creation of a vast British empire, necessitated the formulation of a new colonial policy, which involved alike the redirection of the political life of the old colonies and the determination of the constitutional relations of the new. The first important stage in the political organization of the recent cessions in America, and one applicable to all, was the issuance of the royal proclamation of October 7, 1763, which defined the respective boundaries of the new provinces and made provision for their future government.⁸ By the terms of the

⁴ The occupation of the Illinois country had been retarded by an uprising of the Indians. See Clarence E. Carter, *Great Britain and the Illinois country, 1763-1774* (Washington, 1910), 27-45.

⁵ *Mississippi provincial archives*, 1: 136.

⁶ *Ibid.*

⁷ *Ibid.*, 1: 36. Fort Toulouse, on the east bank of the Coosa, was not occupied, owing to the weak condition of the regiment and the uncertainty as to the attitude of the Indians. *Ibid.*, 1: 12.

⁸ *Documents relating to the constitutional history of Canada, 1759-1791* (Shortt

royal edict Florida and the former French territory between the Perdido and the Iberville rivers was erected into two provinces to be known as East Florida and West Florida. The ministry had deliberated upon this policy for some months prior to its announcement. As early as May 5 of that year the Earl of Egremont in a letter to the board of trade⁹ suggested a number of heads of inquiry relative to the recent acquisitions, among which were those pertaining to the development of commercial advantages and to the diverting of these advantages to British subjects, the security of the whole territory against the aggressions of foreign powers, and the preservation of peace in the Indian country. The members of the board were requested especially to consider what "New Governments should be established & what Form should be adopted for such new Governments? and where the Capital, or Residence of each Governor should be fixed? What Military Establishment will be sufficient? What new Forts should be erected? and which, if any, may it be expedient to demolish? In what Mode least Burthensome and palatable to the Colonies can they contribute towards the Support of the Additional Expence, which must attend their Civil and Military Establishment, upon the Arrangement which Your Lordships shall propose?" The secretary then suggested a number of questions relative to Florida, asking that especial consideration be given such topics as the climate and soil of the region, and as to whether harbor facilities were available in the southern part of the peninsula, at Mobile or Pensacola, or at any other place on the coast, and as to whether such harbors would be of real advantage to commerce. The probable benefits from the free navigation of the Mississippi river was likewise to be studied with a view to its improvement and extension.

The board of trade was requested to gather and classify information on these different heads, and to make recommendations as to the attainment of the various objects enumerated.¹⁰

and Doughty ed.—Ottawa, 1907), 120. For an account of the development of a western colonial policy and the history of the proclamation, see Clarence W. Alvord, *The Mississippi valley in British politics; a study of the trade, land speculation, and experiments in imperialism culminating in the American revolution* (Cleveland, O., 1917), 2: 149-209.

⁹ *Documents relating to the constitutional history of Canada, 1759-1791*, 94.

¹⁰ *Ibid.*

There were insufficient data, however, as implied in the questions propounded by the secretary, upon which to base an intelligent proposal. In the discussion of the preliminaries of peace in 1762 the opposition to the government had viewed the inclusion of the region as of no value to Great Britain. The ministers had no information respecting "those provinces but what they could derive . . . from Mitchell's Map of North America." Advantage was taken, however, of the presence in London of travelers and officials, who, like Captain Knox, had visited in the southern provinces. Such men were called upon to report their views as to the character of the region.¹¹

In June following, in compliance with the secretary's request, the lords of trade under the direction of Shelburne outlined in tentative form the policy to be adopted towards the new possessions.¹² After stating at some length the most obvious advantages resulting from the late cessions, the board observed that these territories could only be secured and improved by the immediate establishment of regular governments at all centers where planting and settlement as well as trade and commerce were the immediate objects. It was argued that in order to invite new settlers to risk their persons and property in taking up new lands, as well as to secure the old inhabitants in the enjoyment of all the rights and privileges reserved to them by the treaty, such regular government was an absolute necessity. It was recommended for the same reasons, as well as to insure

¹¹ "Manuscripts of Captain H. V. Knox," in Historical manuscripts commission, *Report on manuscripts in various collections* (House of commons, *Sessional papers*, Cd. 3218), 6: 281, 282. "I was lately returned from Georgia. . . Dr. Francis having found me out, carried me to his then common friends, Lord Holland and Lord Lansdown. I drew up by Lord Lansdown's desire a defence of the preliminaries and presented it for his Lordship's use, and Dr. Francis got a copy of [it] from me for Lord Holland, who was so well pleased with it . . . that he desired Dr. Francis to ask me if I wished for any office in the new acquisitions, as he meant to consider me." *Ibid.* On July 22, 1763, Secretary Pownall requested from the newly designated governor of West Florida an opinion as to the most reasonable and frugal method by which the "New Established Colony in America may be peopled and Settled with usefull and industrious Inhabitants either from such of His Majesty's other Colonys that may be overstocked or from any foreign parts." Public record office, colonial office papers, 5: 574. See Johnstone's reply, July 27, 1763 (*ibid.*) in which he suggested various ways and means where the settlement of the colony might be facilitated and its commercial value enhanced.

¹² *Documents relating to the constitutional history of Canada, 1759-1791*, 97-107.

British sovereignty and the public tranquility, that a large military force should be kept up in each government, until, by the increase of inhabitants, each colony should be enabled to maintain government by its own internal force. "Canada, Florida and the newly acquired Islands in the West Indies appear to us to be the Places where Planting, perpetual Settlement and Cultivation ought to be encouraged and consequently where regular Forms of Government must immediately be established."

Relative to the area adjacent to the gulf of Mexico, it was pointed out that Florida and the part of Louisiana to the eastward of the Mississippi was comparable to Canada in extent of territory and the number of Indian tribes; but in other respects, these regions were entirely different. The number of settled inhabitants, whether French or Spaniards, was never large, and it appeared to their lordships that there was little probability, in view of the ease with which they could remove, that any of them would remain after the cessions were completed. It was their lordships' opinion, however, that every expedient should be used to induce as many to remain as could be prevailed upon to do so.¹³

In this preliminary report, the board made reference for the first time to the division of Florida into East and West Florida. This plan of division was proposed "with a view to make the two colonies as distinct as possible by establishing a Line of Separation between them and by giving to each a due propor-

¹³ A writer in the *Annual register* for 1763 (p. 19) made the following observation relative to the purpose of the proposed governments. "The cession of Louisiana to the Mississippi, and of the Spanish Florida on both seas, made our American empire compleat. No frontiers could be more distinctly defined, nor more perfectly secured. The only object of attention, which seemed left to Great Britain, was to render these acquisitions as beneficial in traffic, as they were extensive in territory. An immense waste of savage country was evidently to a commercial nation no great object for the present; but it was a considerable one in hope, because it contained an inexhaustible variety of soils, climates and situations, and thereby affording ample materials for the exertion of wealth and skill in its improvements to all the purposes of trade. These exertions were not likely to be wanting, or to be ineffectual. Independent of national motives, the administration in England had a particular interest in improving those acquisitions to the utmost; they were to justify the choice they had made in preferring them to the West India islands. They therefore took very great pains to come to an exact knowledge of every thing, which could tend to render our new conquests on this continent flourishing and commercial. To this end they judged it expedient to divide them into three separate and independent governments."

tion of the natural advantages and conveniences of Commerce and Navigation." Their lordships frankly confessed that the lack of authentic knowledge relative to the coasts, harbors, natural resources, and the people of the region, made it impossible to convey to the king the information essential for the basis of an intelligent opinion.¹⁴ The suggestion for the erection of the two provinces and the description of their boundaries was therefore obviously of a tentative character. Indeed it was proposed that before governments were established in the provinces, steps should be taken for an accurate survey of the sea coast and of the interior region lying between the mountains and Mississippi river.¹⁵

With the knowledge available, however, it was deemed indispensable that this country should be divided into two distinct governments, and that for the present the chief residence of the governor of the one should be St. Augustine, and that of the other, Pensacola.¹⁶ It was then recommended to the council that the two provinces be distinguished by the names of East and West Florida, and that West Florida should "comprehend all the Sea Coast of the Gulf of Mexico, extending West from the Catahowche River or Flint River towards the Mississippi, as far as Your Majesty's Territories extend, and stretching up into the Land as far as the 31st degree of North Latitude."¹⁷ It is evident, however, that the fixing of the northern boundary of West Florida at the thirty-first degree of latitude was based upon no very clearly defined principle. One of the chief motives prompting the board to indicate definite boundaries at this

¹⁴ *Documents relating to the constitutional history of Canada, 1759-1791*, 105.

¹⁵ *Ibid.*, 105.

¹⁶ Pensacola was apparently of less importance than Mobile, "consisting of about one hundred huts surrounded with a stockade;" Mobile, on the other hand, was "a place pretty well cultivated & producing sufficient for export." *Mississippi provincial archives*, 1: 136, 137. Particular instructions were given regarding the Mississippi, "the free Navigation of which ought, we apprehend, be most accurately understood, not only in respect of that River being the future Boundary betwixt Your Majesty's Dominions, and those of the French, but as this River by its Communication with the Ohio, the Illinois &c is of the utmost Importance to all connection with the Indian Nations and the only Outlet to the great internal Trade, which may be carried on amongst them." *Documents relating to the constitutional history of Canada, 1759-1791*, 105.

¹⁷ *Ibid.*

time, without awaiting adequate information, was to allay the suspicions of the western and southern Indians,¹⁸ and the line of thirty-one degrees recommended at this time, which was accepted by the king in council and embodied in the proclamation of October 7, was evidently arbitrary and tentative. It is apparent, moreover, that in the beginning of the discussion over the disposition of the western territory, the northern boundary of Florida was thought of in connection with the establishment of a continuous boundary separating the whites from the Indians,—a boundary which was temporarily set up in 1763, and finally determined in the course of the succeeding decade. With reference to their first suggestion of the thirty-first parallel as the northern limit of the province, their lordships observed that “this is as far north as the Settlements can be carried, without interfering with the lands claimed or occupied by the Indians.”¹⁹

Another significant feature in these preliminary discussions was the observation concerning the character of the governments of the proposed provinces. In its report of June 8 the board recommended a governor and council as the most suitable form. This suggestion was based upon the character and extent of the population of the respective colonies. With reference to Quebec it was expected that generations would pass before there would be sufficient English immigration to warrant the establishment of a representative assembly. In the Floridas, on the other hand, as has already been pointed out, the French and Spanish population was meager and it was assumed that these elements would soon remove either to Louisiana or to the Spanish Indies. It was apparently considered unnecessary, therefore, to provide for representative institutions until sufficient English settlers from the older colonies and Great Britain should occupy the region. The details of the government of each province were to be announced in the commissions and instructions to the governors.²⁰

On July 14 the Earl of Egremont informed Shelburne and his

¹⁸ C. W. Alvord, “Genesis of the proclamation of 1763,” in *Michigan pioneer and historical collections*, 36: 20 ff.; and *Mississippi valley in British politics*, 1: 187 ff.

¹⁹ *Documents relating to the constitutional history of Canada, 1759-1791*, 105. In the following year this boundary was moved north to a line running east from the mouth of the Yazoo river. See post, p. 000.

²⁰ *Ibid.*

colleagues that the king had approved their recommendations and instructed them to prepare the commissions and instructions for the governors, whose names were at the same time transmitted to the board.²¹ At this juncture, however, when the new governments were almost ready for inauguration, there came news of the outbreak of Indian hostilities in the western country. Lord Shelburne had foreseen probable dangers from this quarter resulting from the encroachments upon the Indian hunting grounds. As a temporary expedient for quieting discontents which seemed likely to become serious, he had suggested, in the report of June 8, the running of the new boundary line separating the old and the proposed new colonies from the Indian country and reserving that region for the Indians, where no settlements, "immediately at least," were to be attempted. In order to relieve the pressure in the old colonies due to overpopulation and to the monopolizing of lands by speculators, Shelburne proposed to encourage settlements in Nova Scotia and in East and West Florida. Peace with the Indians would in this way be guaranteed.²²

Upon receipt of the news of the Indian war Shelburne addressed a communication to Egremont on August 5 advising the immediate issuance of a proclamation embodying his two plans, the reservation of the Indian lands and the erection of the new provinces, with a declaration of intention to encourage people to settle in East and West Florida and Nova Scotia.²³ The ministerial reply to this proposal was postponed on account of the death of Egremont on August 21, which necessitated a readjustment within the ministry. The changes involved the retirement of Shelburne as president of the board of trade; Lord Hillsborough was called to this position and the Duke of Halifax succeeded Egremont as secretary of state for the southern department. It was not until September 19, therefore, that an answer was made to the board of trade's letter of August 5. This reply gave authority to the board to draft the suggested proclamation.²⁴ But this duty now devolved upon Lord Hills-

²¹ *Ibid.*, 108.

²² *Ibid.*, 100-102. A full discussion of this policy is in Alvord, *Mississippi valley in British politics*, 1: 170 ff., 187 ff.

²³ *Documents relating to the constitutional history of Canada, 1759-1791*, 110, 111.

²⁴ *Ibid.*, 112; Alvord, *Mississippi valley in British politics*, 1: 189 ff.

borough, who was unfamiliar with general American conditions and did not understand the ideals and purposes of his predecessor. The ministry, moreover, was not completely satisfied with the scope of Shelburne's plan. The result was that instead of completing the proclamation in accordance with the latter's recommendation, the new president of the board followed the desires of the ministry and incorporated numerous other matters. We are immediately concerned, however, with only three of these,—the final creation of West Florida, whose bounds have already been described, the assignment to the governors of power to call representative assemblies, and the extension of English law to the new province. Three days before the announcement of the proclamation Hillsborough informed Lord Halifax that in revising the report of the board of trade of June 8 it was found "expedient for His Majesty's Service, and give Confidence and Encouragement to such Persons as are inclined to become Settlers in the new Colonies, That an immediate and public declaration should be made of the intended permanent Constitution and that the power of calling Assemblies should be inserted in the first Commissions, We have therefore drawn the Proclamation agreeable to this Opinion, and have prepared the Commissions accordingly . . ."²⁵ The completed proclamation was approved by the king in council on October 5, the commissions to the governors of the new colonies were passed on October 6, and the edict was proclaimed on October 7.²⁶

What, in the meantime, had been the legal status of the region thus incorporated as West Florida, and what was its constitutional position subsequent to October 7? The ceded territory was dependent upon the crown; for by royal prerogative the king had such power over a conquered country that he could enact all necessary legislation. This was the opinion of jurists and publicists,²⁷ and the crown acted upon the assump-

²⁵ *Documents relating to the constitutional history of Canada, 1759-1791*, 114.

²⁶ *Ibid.*, 115, 116, 120-123.

²⁷ See the case of *Campbell v. Hall*, involving the constitutional status of the island of Grenada, in which Lord Mansfield voiced the unanimous opinion of the court that it was within the power of the king to make a legislative enactment with regard to the island. *Ibid.*, 366-372. See also the view of Sir William Blackstone, *Commentaries on the laws of England* (Cooley, 3d ed.—Chicago, 1884), introduction, sec. 4, 107. For conflicting opinion of Attorney-General Thurlow, see *ibid.*, 181.

tion that the principle was correct. It was an equally sound principle that although the public law of the conqueror was substituted for that of the conquered, the private law remained unchanged unless otherwise directed by the new sovereign.²⁸ With the announcement of the proclamation of October 7, 1763, however, these two conditions were changed. Although the king could govern the recent conquests by any method consistent with the constitution, he deprived himself of this privilege by the proclamation, which directed the governor of the province to call a general assembly "as soon as the state and circumstances" of the colony should admit. The king thereby "precluded himself," observed Lord Mansfield, "from an exercise of the legislative authority which he had before. . . ."²⁹ The royal proclamation in connection with the governor's commission and instructions became, in effect, therefore, a constitution for the province of West Florida throughout the entire period of British rule. It served likewise as the fundamental law in Quebec, East Florida, and Grenada.³⁰

This new fundamental constitution proclaimed, moreover, the establishment of English law in the province thus created. The Spanish code and the *coutume de Paris* were now completely displaced by English statute and common law. The governors were instructed to erect courts of judicature "for hearing and determining all Causes, as well Criminal as Civil, according to Law and Equity, and as near as may be agreeable to the Laws of England," with liberty of appeal, in civil cases, to the privy council.³¹ Apparently the chief purpose of this extension of English law was to give impetus to the anticipated immigration into these new territories.³² That the small alien population would remain in the Floridas was not expected. Assurances of

For a discussion of the analogous position of Canada, see Victor Coffin, *The province of Quebec and the early American revolution* (University of Wisconsin, *Bulletin*, Economics, political science and history series, 1: no. 3 — Madison, 1896), 326 ff.

²⁸ Consult case of *Campbell v. Hall*, in *Documents relating to the constitutional history of Canada, 1759-1791*, 366-372, and Blackstone, *Commentaries on the laws of England* for leading opinions.

²⁹ *Documents relating to the constitutional history of Canada, 1759-1791*, 371.

³⁰ *Ibid.*; Coffin, *The province of Quebec and the early American revolution*, 326 ff.

³¹ *Documents relating to the constitutional history of Canada, 1759-1791*, 121.

³² *Ibid.*, 106.

a popular government and the protection of English laws were therefore given to make doubly attractive to prospective colonists a region already deemed especially fit for exploitation and settlement.

More than a year elapsed, however, before the civil establishment contemplated for West Florida in the proclamation of 1763 was in motion. Although Governor George Johnstone, the crown's first representative in the province, had been nominated on July 14, 1763,³³ along with the governors of East Florida and Canada, he did not arrive at Pensacola, the seat of his government, until October 21, 1764.³⁴ In the months immediately subsequent to the issuance of the proclamation considerable work had to be accomplished by the board of trade and by the newly appointed governors in perfecting the details of the administration. As already observed, the commissions containing an outline of the frame of government for the respective provinces had passed the seals on October 6. But the detailed instructions for the guidance of the royal governors remained to be completed. This work was accomplished on November 3, and the instructions were returned to the board with the royal signature on December 14.³⁵

At the same time the lords of trade addressed the crown³⁶ on the subject of the populating of the provinces of the Floridas "which Country being as yet almost, if not altogether unsettled & uncultivated, presents itself as an Object of that Care and Attention which its Value and Importance appear so greatly to merit." In the instructions to Governor Johnstone directions had already been given "to survey and lay out the Lands in small Townships." In order, therefore, to encourage and expedite the settlement of the lands it was recommended that advertisements be issued from time to time inviting proposals for settling townships in the new government of Florida. Such an advertisement was inserted in the *London Gazette* of November 22, 1763,³⁷ setting forth that the board had received information that many persons were desirous of grants of land in East

³³ *Documents relating to the constitutional history of Canada*, 108.

³⁴ *Mississippi provincial archives*, 1: 152.

³⁵ Public record office, colonial office papers, 391.70.

³⁶ *Ibid.*, 5.563.

³⁷ *Ibid.*, 391.70; *Scot's magazine*, 25: 627; *Annual register* for 1763, 111.

and West Florida, and that in order to avoid delay in the making of settlements the king had directed that the lands be surveyed and laid out in townships not to exceed twenty thousand acres each. These townships were to be granted to such persons as were "willing to enter into reasonable engagements to settle the lands, within a limited time, and at their own expense, with a proper number of useful and industrious inhabitants." Proposals to this end were invited to be made in writing to Mr. Pownall, the secretary of the board.

An important administrative and legislative detail also to be settled related to the financing of the new provinces. Already on October 5, 1763, Lord Halifax had enclosed to the lords of the treasury a list of the civil officers which the ministry had thought proper to establish in the new governments.³⁸ Their lordships were requested to determine the salaries to be paid in order that the board of trade might prepare an estimate for parliament.³⁹ During the course of the succeeding months, until his departure early in the autumn of 1764, Governor Johnstone held numerous conferences on this and other subjects with the board of trade and members of the ministry.

The interchange of opinion at these meetings together with the increased knowledge concerning the province led to certain modifications in the governor's commissions and instructions,⁴⁰ the most important of which was the change in the northern boundary. In a communication to the crown on March 23, 1764, the lords of trade proposed that the boundary be moved north to a line running eastward from the mouth of the Yazoo river.⁴¹

³⁸ *Calendar home office papers in the reign of George the third*, 1: 311.

³⁹ The sum of five thousand seven hundred pounds sterling was granted by parliament for defraying the charges of the civil establishment of West Florida from June 24, 1763, to June 24, 1764. *Annual register* for 1763, 161.

⁴⁰ See for example board of trade journals, volume 72, under dates of January 12, April 17, May 1, 25 and 31, wherein such topics as the detailed application of the money granted by parliament are considered. At the board of trade meetings the governors were frequently called in consultation. On one occasion the governors of East and West Florida were censured by the secretary of the treasury for applying money granted for their respective colonies without acquainting the treasury. This charge led to an investigation by the board of trade as a result of which definite instructions were given to the governors on this point.

Requests for land grants likewise led to the determination to make certain changes in the quit rent reservations. Board of trade journals, volume 72, under dates of May 4, 8, 14, 15, and 16, 1764.

⁴¹ *American state papers: public lands*, 1: 57.

This recommendation was approved by the privy council on March 26 and referred to the law officers, who reported favorably on May 1, and final approval was given by the council eight days later. The order for the change was sent to Governor Johnstone in a supplementary commission on June 6.⁴²

Frequent communications likewise passed between the board and the society for the propagation of the gospel in foreign parts relative to the appointment and support of ministers in East and West Florida. This matter appears to have received considerable attention and resulted in the nomination by the board of ministers recommended by the society.⁴³ Warrants were also sent to the master general of the ordnance, signifying "the King's approbation that two Engineers should be sent to each of the provinces viz. East and West Florida and the ceded islands."⁴⁴ The appointments were accordingly made.⁴⁵

In the interval between the occupation of the province and the establishment of the civil régime the control of affairs was in the hands of the military authorities. The commander-in-chief of the British army in North America early assumed the direction of affairs, and the officers⁴⁶ commanding at Mobile and Pensa-

⁴² *Acts of the privy council of England, colonial series* (Munro and Fitzroy ed. — London, 1911), 4: 688. A copy of the supplementary commission to Johnstone is in the general land office, Washington, Florida papers. For a more detailed discussion of the boundary change, with an analysis of the motives underlying it, see Clarence E. Carter, "Some aspects of British administration in West Florida," in *MISSISSIPPI VALLEY HISTORICAL REVIEW*, 1: 365-369.

⁴³ Board of trade journals, volume 72, under dates of March 13, April 17, 30, May 1, 23, June 23, 26, and July 30, 1764.

⁴⁴ *Calendar home office papers in the reign of George the third*, 1: 501.

⁴⁵ Canadian archives, B. 17: 27.

⁴⁶ "I herewith enclose a Letter from the Secretary of State, which will inform you of His Majesty's Pleasure, that you should obey all orders as you may receive for your Conduct from me, or the Commander-in-chief for the Time being of His Majesty's Forces in North America. . . The King has been graciously pleased to leave it to me to send any officer I shall think proper to take the Command of the Troops to be stationed at the Mobile & the ceded Country to the left of the Mississippi & the Country ceded by *Spain*, on the Continent of North America & I am to acquaint you that I think proper to leave the said Command in your Hands, until further Orders." Amherst to the officers commanding at Florida and Louisiana, August 23, 1763, Board of trade, plantations general, No. 19, ff. 59-61. "The Secretary of State having signified to me, that as my commission under the Great Seal, of Commander in Chief of all His Majesty's Forces in North America, included *Florida*, and the country ceded by Spain, on the Continent, and likewise the Country ceded by France on the left side of the Mississippi; It is the King's pleasure I

cola, the principal posts, held an absolute sway over the region.⁴⁷ For more than a year this rule continued. Although in the beginning the officials were disposed to create numerous offices,⁴⁸ an order from Gage restricting the staff in each fort of the province to a barrack-master and an adjutant appears to have simplified the administrative machinery.⁴⁹ To assist him in disposing of civil matters and in settling affairs with the retiring French officials Major Farmar, in command of the post at Mobile, appointed a secretary and a deputy judge advocate.⁵⁰ There were several irritating questions to decide. One of the first issues related to the Indians. A large Indian congress called by the French officials was assembling at Mobile in October, 1763, at the time of Farmar's arrival, and this fact made necessary the formation of a temporary Indian policy. The situation entailed considerable expense and the consequent embarrassment of the British officials who were unable to meet all the demands of the occasion;⁵¹ thus another problem was introduced,—that of procuring money for financing the necessary activities of the military government. There was little money to be obtained at this time. "I am in no small Dilema at present," wrote Farmar, "not knowing where or how, to procure Money to pay for the Goods, &c, and the Workmen employed, as what little Cash the Merchants here have, they do not choose to take Bills for, payable at New York, and our being supply'd from thence is very precarious from the distance, and the difficulty of the Navigation."⁵²

Considerable confusion was likewise created, if we may credit should give the necessary orders to the officers commanding the troops destined for those Places, for putting everything on a proper Footing, for the several Posts, as well as for keeping the entire Possession of the Countries so ceded, agreeable to the definitive Treaty of Peace, signed at Paris the 10th Febry 1763." Amherst to Robertson, August 24, 1763, Board of trade, plantations general, No. 19, ff. 49-56. Lieutenant-Colonel Robertson, quartermaster general for North America, made a tour of inspection of the ceded territory in the late summer and autumn of 1763. While there he had charge of the disposition of the troops. His report to General Gage determined, in large part, the immediate policy pursued.

⁴⁷ *Mississippi provincial archives*, 1: 61-63, 7-17, 91, 92.

⁴⁸ *Ibid.*, 1: 16.

⁴⁹ *Calendar home office papers in the reign of George the third*, 1: 418.

⁵⁰ *Mississippi provincial archives*, 1: 16.

⁵¹ *Ibid.*, 1: 13, 14.

⁵² *Ibid.*, 1: 9.

Farmer's allegation, by the action of the French officers and inhabitants in claiming as private property works that belonged to the French crown. "Unless it could be known," he observes, "whether His Most Christian Majesty has suffered his officers to sell the Houses built at his expence for the use of his Civil and Military Officers, there is no knowing how to act with them." He informed the English merchants, therefore, that if they purchased such houses and it should afterwards appear that they were the king's property, the purchasers would be compelled to pay rent and would be liable to dispossession.⁵³ The ultimate solution of this question, however, as of numerous others, does not appear from the material available.

It fell also to the lot of the military government to adjust the relations with the old inhabitants. According to the provisions of the treaty of Paris the French and Spanish inhabitants were to be allowed to sell their estates, provided the transfer was to British subjects, and to retire with their effects without restraint. The time limit for this emigration was fixed at eighteen months, to be computed from the day of the exchange of ratifications. Guarantees were likewise given that all who remained should enjoy the liberty of the Roman Catholic religion. There is no record available to indicate that any Spanish inhabitants took advantage of these provisions to remain at Pensacola. The French in and about Mobile, moreover, were slow in determining to take the oaths. In April, 1764, only eight had subscribed,⁵⁴ but doubtless owing to the receipts of news of the cession of Louisiana to Spain⁵⁵ a large number decided to become British subjects, one hundred and twelve taking the oaths of allegiance before the end of the military régime.⁵⁶

The arrival of Governor Johnstone at Pensacola on October 21, 1764,⁵⁷ marks the actual beginning of the civil administration of the province, the framework of which had already been erected through the medium of the commission and instructions which were published soon after his arrival.⁵⁸ The terms of the

⁵³ *Mississippi provincial archives*, 1: 15.

⁵⁴ *Ibid.*, 1: 116.

⁵⁵ *Ibid.*, 1: 138.

⁵⁶ List of the French taking the oaths of allegiance, *ibid.*, 1: 122.

⁵⁷ *Ibid.*, 1: 152.

⁵⁸ Public record office, colonial office papers, 5. 599.

commission, marking out in general the course of action of the governor in inaugurating the new government, vary so slightly from those usually issued in the royal provinces that it is unnecessary to restate them in full in this connection. Although the instructions conform to the general tenor of the instructions to the governors in the old colonies, in many cases the same phraseology being used, there are a number of variations and some additional provisions made necessary by the new conditions in West Florida. As in the old provinces, the governor shared his power with a council, to be composed in this case of twelve men, two of whom were to be the surveyor-general of the customs for the southern district and the chief justice of the province.⁵⁹ With the council thus constituted the governor was to make all rules and regulations necessary for the government of the province until such time as he deemed it expedient to call a general assembly.⁶⁰ The council was permitted to vote on all affairs of public concern and was to share equally with the assembly, when called, the power of framing money bills. Armed with the usual power of creating a central and local judiciary, with its numerous appurtenances, the governor was instructed to copy as far as possible similar establishments in the colony of Georgia. In the matter of appeals from the colonial to the imperial courts the practice of Georgia was likewise to be followed; this, however, differed in no important particular from the system in vogue in other provinces. The hearing of appeals was the highest judicial function of the governor and council.⁶¹ Provisions determining the course of action of the newly erected government toward the Indians and toward the Roman Catholic

⁵⁹ It was provided in addition that in case there were less than seven councillors residing in the province, the governor should "choose as many of the Principall inhabitants of Our said Province as will make the full number of the Council to be seven and no more: which persons so chosen and appointed by you shall be to all intents and purposes Councillors in our said Province till either they shall be confirmed by us or by the nomination of others by us . . . Our said Council shall have seven or more persons in it."

⁶⁰ See below for discussion of provisions relative to the assembly.

⁶¹ The value in question must exceed £300 sterling. A further appeal to the privy council was available, but in this case the sum involved must not be below £500 sterling. For a general consideration of the right of appeal see Evarts B. Greene, *The provincial governor in the English colonies of North America* (New York, 1898), 140, 141.

subjects of France and Spain who still resided in the province, the encouragement of immigration into the colony and the development of its natural resources, are all new features. The governor, moreover, is warned not infrequently to discourage any manifestations of independent action on the part of the people.

At the very outset of Governor Johnstone's administration he came into open conflict with the military arm of the government over matters pertaining to the respective jurisdictions of the departments. This series of disputes, which appears almost interminable and concerning which there are volumes of papers,⁶² remained a disturbing element in the colony during the administrations of Johnstone and is reflected in some of the later administrations. In its development it represents a phase of colonial administration of some consequence, in that it tended to bring chaos into government, especially in West Florida, one of the first colonies in which this conflict appears in an acute form.

One of the points in dispute related to the right of the governor to review cases which had been passed upon by the judge advocate's court under the military régime.⁶³ The military authorities held that the governor was prevented by a parliamentary enactment from reviewing such decisions, and that the latter could be reviewed only in English courts. The governor, on the other hand, contended that his jurisdiction began with the date of his commission; so that in one of the cases involved — that of the settlement of an estate of a man who had died prior to the governor's arrival in the colony — the military authorities according to the latter view were in duty bound to turn over to him all the papers pertaining to the case.

The controversy assumed a more acute form in the dispute concerning the question as to who held supreme command over the troops,⁶⁴ the governor or the ranking military officer of the province who derived his authority from the commander-in-chief

⁶² Johnstone to Farmar, January 7, 1765, in Public record office, colonial office papers, 5: 574.

⁶³ Johnstone to Farmar, January 7, 1765, in Public record office, colonial office papers, 5: 574.

⁶⁴ *Mississippi provincial archives*, 1: 172 ff., 288 ff. For full account see *ibid.*, 1: 338 ff.

of the British army in America. Governor Johnstone assumed the right to issue orders of various kinds to the troops; among other things an officer was placed under arrest by his command and was brought to a public trial.⁶⁵ He demanded, moreover, the keys of the garrison, which were promptly refused, and he insisted upon his constitutional right to order the movement of the troops from one point to another.

In order to clear up the situation an attempt was made by the ministry to lay down principles for the guidance of the respective powers in the province⁶⁶ according to which the governor in council or the governor alone where no council existed might issue commands to the troops in his province in the absence of specific orders from the commander-in-chief or the brigadier general of the district, providing such orders were not contradictory to any previously received from the commander-in-chief. There was to be no interference by the civil governor, however, with the details of military regulations and discipline.⁶⁷

In an attempt to reinforce and interpret the king's orders, General Gage, commander-in-chief of the British forces in America, observed that "His Majesty never did intend the governor should have supreme command,"⁶⁸ which they never had had since the Troops came to America."⁶⁹ Furthermore, no orders from the king were to be published⁷⁰ until the commander-in-chief should issue the command as he was "answerable for the execution of them."⁷¹ Governor Johnstone, on the other hand, justified his actions by asserting that the secretary at

⁶⁵ *Ibid.*, 1: 176, 177.

⁶⁶ *Ibid.*, 1: 172 ff.

⁶⁷ *Ibid.*, 1: 417.

⁶⁸ The power to appoint the town mayors was vested in the commander-in-chief; nevertheless Johnstone insisted on his right to nominate these officials. Letter from Gage, March 28, 1766, in Lansdowne manuscripts, Lansdowne house, London, vol. 51; copy in Illinois historical survey collection, university of Illinois.

⁶⁹ Gage to Taylor, June 10, 1766, in Canadian archives, B. 2-2: 101. He asserted that the governor of Nova Scotia, who was a military man and under the commander-in-chief, was the only governor who "ever had any command over the troops during the years that I have served here." *Mississippi provincial archives*, 1: 393.

⁷⁰ Governor Johnstone had issued the king's orders of February 9, 1765, to the garrison at Pensacola. See *ibid.*, 1: 396 ff.

⁷¹ *Ibid.*, 1: 394. In this connection, also, Gage ordered that no commands from Johnstone should be obeyed by the barrack master. Gage to Taylor, September 29, 1776, in Canadian archives, B. 2-2: 131.

war acknowledged the governors under certain specific limitation, to be "Commanders in Chief, as they were responsible for their Provinces, as well as the Fortresses where they resided."⁷² Indeed it was set forth in Johnstone's commission,⁷³ as in the commission of every other royal governor, that "We do hereby require and command all Officers and Ministers, Civil and Military and all other Inhabitants of Our said Province to be obedient, aiding and assisting unto you the said George Johnstone in the execution of Our Commission and of the Powers and Authorities herein contained." This apparent overlapping of the powers in the commissions to the civil and military heads was necessarily provocative of disputes.⁷⁴ Apparently the efforts of the imperial authorities to define the line of demarcation between the respective authorities was futile, as the temperament of the heads of the civil and military powers did not admit of adjustment. It was particularly contrary to Johnstone's disposition to remain at peace with any officials whose powers appeared to be equal or superior to his own;⁷⁵ moreover, he inci-

⁷² *Mississippi provincial archives*, 1: 401, 402.

⁷³ Commission to Governor Johnstone, November 21, 1763, Public record office, colonial office papers, 5: 599.

⁷⁴ It appears that West Florida was not the only province in which there occurred disputes between the civil and military branches of the government after the appointment of a commander-in-chief of the army in America. An analogous case occurred several years later in the province of New York. Here the question arose as to who should take precedence "upon all occasions," Gage or Governor Moore. It was decided by the council of New York that the "all occasions" of Gage's instructions applied only to councils of war and that the civil power should not be subordinate to the military. Hillsborough stated in his reply to this discussion that "nothing that be more foreign to His Majesty's Intentions than the introducing Military Government into His Provinces in America." *Documents relative to colonial history of the state of New York* (O'Callaghan ed. — Albany, 1853-87), 8: 16, 17, 73, 97-99. In East Florida, also, in 1768, Governor Grant sought to maintain a "Personal Command" over all departments,—the fort, the artillery, ordnance, etc.,—"except the private regimental detail." Taylor to Haldimand, February 13, 1768, and Taylor to Gage, February 14, 1768, in Canadian archives, B. 11: 365, 368. Disputes over the command also occurred in Canada. *Mississippi provincial archives*, 1: 444 ff.

⁷⁵ Gage asserts, however, that though the barracks are under the commanding officers' "Care Orders, and Inspection, & strictly speaking the Governor has not in that case anything to do with them, and his order relative to the removal of officers not legal being out of his Jurisdiction." Nevertheless Gage saw no reason why the governor's requests "should not be complied with, in Cases of Necessity and where no detriment is to happen to the service." *Ibid.*, 1: 387, 388. He continued, nevertheless, to assert that he never would acknowledge Johnstone as commanding officer of

dentally took advantage of the frequent shifting of the military command.⁷⁶ From the beginning of his administration, therefore, to the day of his departure for England the province was filled with dissensions.

The first dispute on this head arose out of Johnstone's attempt to dictate to Major Robert Farmar, the head of the military forces at Mobile. The strife was long and bitter, charges and counter charges being hurled back and forth in rhetoric not wholly conducive to mutual good feeling and efficiency of administration. Johnstone was charged with "Violence and Severity" in a memorial forwarded to England by the troops at Mobile.⁷⁷ Serious indictments were likewise preferred against Major Farmar; so grave indeed that General Gage was forced to consent to a trial in order to clear up the affair. Farmar had in the meantime, early in the autumn of 1765, departed for the Illinois country to effect the occupation of that region. But Gage instructed General Taylor, the new chief of the military forces in the southern district, to place Farmar under arrest upon his return⁷⁸ from Illinois and to summon a court-martial as soon as convenient to review the charges. Eight serious offenses were alleged, among which were such charges as selling the king's flour at New Orleans, misapplying funds set aside for Indian expenses, and selling Fort Tombeckbe.⁷⁹ Even these accusations were not satisfactory to the governor,⁸⁰ who asserted that Gage had not preferred half the charges which in his mind were justifiable. The trial, however, did not begin promptly. Farmar, after having received summons to the trial, lingered

the troops, as the governor tried in every possible way to stretch the laws for the purpose of making himself supreme. Gage to Taylor, August 14, 1766, Canadian archives, B. 2-2: 118; Gage to Taylor, September 29, 1766, *ibid.*, B. 2-2: 131.

⁷⁶ In the summer of 1765, General Bouquet arrived in West Florida to take command but died almost immediately. During the interim, until the assumption of temporary command by Taylor in 1766, Johnstone declared himself head of the military forces. General Haldimand, the successor of Bouquet, arrived in West Florida in the spring of 1767.

⁷⁷ *Mississippi provincial archives*, 1: 176 ff.

⁷⁸ Gage to Taylor, September 29, 1766, in Canadian archives, B. 2-2: 131.

⁷⁹ Articles of accusation by Gage, September 29, 1766, *ibid.*, B. 22: 127; Peter J. Hamilton, *Colonial Mobile; an historical study largely from original sources, of the Alabama Tombigbee basin and the old south west, from the discovery of the Spiritu Santo in 1519 until the demolition of Fort Charlotte in 1821* (Boston, 1910), 256.

⁸⁰ Gage to Haldimand, January 14, 1767, in Canadian archives, B. 3: 4.

several weeks at New Orleans,⁸¹ not arriving at Mobile until December, 1766.⁸² Then there occurred many delays incident to the assembling a sufficient number of witnesses for the court-martial,⁸³ so that the trial was not begun till June, 1767.⁸⁴ This case, which was a representative one in the long contest between the civil and military authorities, was deemed of sufficient importance to warrant the sending of officials from St. Augustine, South Carolina, and New York.⁸⁵ Although Farmar was acquitted, the real issue does not seem to have been determined.⁸⁶

After Farmar's departure, Johnstone, who considered himself head of the military forces since Bouquet's death, entered into a dispute with Lieutenant-Colonel Walsh of Pensacola over the "appointing of a Town Mayor of Pensacola, and the Disposal of a Barrack Hut."⁸⁷ Walsh, who resented the interference of the governor, subsequently seized the fort at Pensacola and refused to admit a detachment Johnstone had called from Mobile. Johnstone therefore had Walsh arrested and examined to ascertain whether charges of mutiny might not be preferred against him. The lieutenant, however, was not held.⁸⁸ While Johnstone was still attempting to have Walsh removed from command, General Taylor⁸⁹ arrived and despite Johnstone's protests re-

⁸¹ Gage to Haldimand, January 14, 1767, *ibid.*

⁸² Johnstone to Taylor, December 13, 1766, *ibid.*, B. 22: 186.

⁸³ Haldimand to Gage, March 25, 1767, *ibid.*, B. 3: 16; June 30, 1767, *ibid.*, B. 3: 90.

⁸⁴ "List of persons supporting Major Farmar, June 18, 1767," *ibid.*

⁸⁵ Gage to Haldimand, May 8, 1767, *ibid.*, B. 3: 5.

⁸⁶ All parties concerned felt themselves aggrieved. "Major Farmar thought himself sacrificed to Governor Johnstone, and Governor Johnstone charged the general (Gage) with partiality to Farmar." Taylor to Haldimand, August 6, 1767, *ibid.*, B. 11: 312.

⁸⁷ Letter from Gage, March 28, 1766, in Lansdowne manuscripts, vol. 51.

⁸⁸ Chief justice Clifton was forced to resign his office because of Johnstone's criticism of his verdict of "not guilty" in the Walsh case. He was reinstated, however, early in 1768. This is a further illustration of the governor's quarrelsome nature. Not only did he break with the chief justice, but also with the attorney-general of the province, E. R. Wegg, whom he suspended on the grounds of negligence and incapacity, charges which seem never to have been proven. Consult index to *Mississippi provincial archives*; see also Hillsborough to Browne, February 23, 1768, Public record office, colonial office papers, 5: 584.

⁸⁹ Johnstone states that General Taylor had adopted the idea of the military branch being subjected to the civil. Johnstone to Boddington, July 19, 1766, *ibid.*, 5: 583. Nevertheless, according to Taylor's later statement, this was not correct. "I know of no advantage to the government from this Command from the Civil Governors"

tained Walsh.⁹⁰ The brigadier had been instructed by Gage to examine the conduct of Walsh and to give him a private reprimand or bring him to trial if found guilty. If, however, Walsh should not be guilty of a military crime, the dispute was to be "dropped,"⁹¹ and this course appears to have been followed.

Yet another problem perplexed the officials of the recently occupied territory, — that of conciliating the Indians. Since the French had been successful in their management and since the Indians were still attached to the former's interests, it was imperative that the English effect an adjustment with these nations immediately, especially in view of the fact that but two depleted regiments and as many ruinous forts were available as barriers against possible attacks of Choctaw and Creeks, the former capable of assembling six thousand fighting men and the latter approximately thirty-six hundred.⁹² The problem presented an acute phase immediately upon the occupation of Mobile. According to custom the French had summoned the Creek and Choctaw nations to an annual congress to be held at that place about the first of November, 1763, for the purpose of distributing the annual presents. As the Indians had begun to assemble before the end of October, the French officials requested Farmar not to land his troops until after the meeting had adjourned. Farmar, however, insisted upon disembarking and assuming control of the congress, which was his prerogative in consequence of the cession. He presided over the congress during the succeeding weeks, aided by the former French officers.⁹³ As the government had not as yet issued any orders in regard to general Indian management, Farmar deemed it wise to adopt a policy similar to that of the French.⁹⁴ There followed an earnest at-

over the king's troops; "that the King's troops raised and paid by Great Britain should be merely body-guards in the Provinces." Taylor to Haldimand, February 13, 1768, in Canadian archives, B. 11: 365.

⁹⁰ Johnstone to Taylor, July 26, 1766, in Public record office, colonial office papers, 5: 583.

⁹¹ Gage to Taylor, September 29, 1766, in Canadian archives, B. 2-2: 131.

⁹² *Mississippi provincial archives*, 1: 7 ff.

⁹³ *Ibid.*, 1: 14, 1: 185. In view of Pontiac's rebellion this was an important consideration. It was the opinion of authorities that a considerable military force should be quartered in the province not only to avert possible counter attacks from the Spanish but also to crush any possible Indian uprising. *Calendar home office papers in the reign of George the third*, 1: 418.

⁹⁴ *Mississippi provincial archives*, 1: 11. As one result large sums were expended

tempt on the part of the British, with the cordial coöperation of the French, to prepare the Indians for a peaceful reception of British sovereignty.⁹⁵ This was partially accomplished by the promise to supply the Indians in accordance with the French custom, a policy which, as has already been pointed out, entailed a heavy expense.

In the instructions⁹⁶ to Governor Johnstone, which were issued in November, 1763, and which he brought with him to West Florida a year later, a general Indian policy was outlined. Among other things provisions were to be made for the gaining of definite information concerning the neighboring tribes. A proper person was to be appointed to hold congresses with the nations for the purpose of promising them protection and friendship. These instructions further reflect the principles as embodied in the royal proclamation of October 7, 1763,⁹⁷ which provided that the Indians were not to be disturbed in the possession of their territory, and that trade was to be free and open to all persons obtaining a license from the governor or commander-in-chief of the colony. All traders, moreover, were bound to observe such regulations as should be proclaimed for the benefit of the trade.

Prior to the announcement of the proclamation in America, a congress of all the nations of the south had been convened at Augusta November 7, 1763.⁹⁸ At this meeting the Choctaw and the Creeks, especially the latter, had asked for definite boundary lines in the south, beyond which the British might not intrude. They received the reply that nothing could be adjusted there until the "appointed governors for those countries" should arrive.⁹⁹ Upon the coming of Governor Johnstone of the new province of West Florida, therefore, about a year after the

on Indian presents. Five thousand pounds were necessary for the Choctaw nation alone, where the English government had allowed but fifteen hundred. *Ibid.*, 1: 150.

⁹⁵ See Farmar's address to the Creeks, and also talks given to the Choctaw by Farmar and Dabaddie at Mobile November 14, 1763. *Mississippi provincial archives*, 1: 80-91.

⁹⁶ Instructions to Governor Johnstone, December 7, 1763, in Public record office, colonial office papers, 5: 201.

⁹⁷ *Documents relating to the constitutional history of Canada*, 122

⁹⁸ For an account of the congress, which convened November 7, 1763, see *State records of North Carolina* (Clark ed. — Winston, 1895), 11: 182 ff.

⁹⁹ *Ibid.*, 11: 195.

general meeting at Augusta, negotiations were immediately begun by the calling of congresses with the Choctaw and the Creeks respectively. Since the meeting at Mobile in 1763 the Choctaw had remained quiet.¹⁰⁰ But the Creeks about Pensacola were exceedingly jealous of their lands and still retained their suspicion of the English. They claimed all the land about the fort with the exception of a small tract immediately adjacent, which had been ceded to the Spaniards. Furthermore, they threatened to attack the English as soon as the latter should begin to settle the region.¹⁰¹ The Creeks also prohibited the carrying of any goods from Pensacola into their country.¹⁰²

The congress for the Choctaw was convened at Mobile March 26, 1765, and that for the Creeks at Pensacola May 26, 1765. The two momentous problems were those of trade and boundary, and both, through the coöperation of John Stuart, superintendent of Indian affairs in the southern district, were amicably settled.¹⁰³ The traders to both nations agreed to be bound by certain regulations.¹⁰⁴ The Choctaw surrendered a generous portion of territory,¹⁰⁵ in contrast to the narrow, sandy strip surrendered by the Creeks.¹⁰⁶ The latter, however, promised to augment their cession at the end of four years if the English fulfilled their promises.¹⁰⁷

At the time of the Choctaw encampment at Mobile in 1765, the Creeks captured several members of that tribe, murdered

¹⁰⁰ *Mississippi provincial archives*, 1: 119.

¹⁰¹ *Ibid.*, 1: 142, 143.

¹⁰² *Ibid.*, 1: 165.

¹⁰³ *Ibid.*; Stuart to Pownall, August 24, 1765, in Lansdowne manuscripts, vol. 60.

¹⁰⁴ In consequence of the terms of the proclamation the Indian country was overrun with traders. Stuart drew up a set of regulations to attempt to lessen the number and to regulate the trade. The number of undertraders employed by the licensed traders was fixed and persons wandering among the Indians were not to be harbored. A uniform tariff was to be observed and the trade was to be transacted within the Indian towns. "Copy of the regulations of trade," enclosed in Stuart's letter to the governors, March 31, 1765, Public record office, colonial office papers, 323.23.

¹⁰⁵ This territory comprised approximately the area comprehended by Mobile bay, Tombigbee river, west along the Buckatanne river to the Pascagoula river; down that river to within twelve leagues of the sea and as far west as the Choctaw had a right to grant. *Mississippi provincial archives*, 1: 184.

¹⁰⁶ Hamilton, *Colonial Mobile*, 244 ff.; *Mississippi provincial archives*, 1: 184 ff.

¹⁰⁷ *Ibid.*, 1: 185; Stuart to Pownall, August 24, 1765, in Lansdowne manuscripts, vol. 60.

ten and refused to return the others.¹⁰⁸ War ensued between these two nations, which affected West Florida to the extent of retarding somewhat the Indian trade and of postponing the survey of the boundary line.¹⁰⁹ Johnstone's policy in regard to this strife became an important issue during the next few years, reflecting in a measure the old strife between the executive in West Florida and the military authorities. His theory was that the Creeks were to be feared, that they "must be chastised, if we expect Settlements in these Parts to flourish; if we expect to keep any future consequence with the other Indian Nations."¹¹⁰ His plan was secretly to induce, by large presents, the Choctaw, Chickasaw, and Cherokee to unite against the Creeks and to withdraw English traders from that nation.¹¹¹ He was most energetic in attempting to win recruits to his plan of crushing the power of the Creeks. Under ordinary circumstances the military arm of the government would doubtless have agreed to coöperate, but curiously enough, that branch of the service opposed his plan. General Gage, for example, used all his powers "to prevent the Nation being plunged headlong into an unprofitable War with Savages" and declared that if Johnstone was determined to bring on a war "let him answer the consequences."¹¹² This view likewise found strong support in the British ministry, which sent warning notes to all American officials in the southern provinces to preserve peace.¹¹³ This combined opposition of army officials and the government prevented the execution of the governor's plan. The war continued, however, beyond the administration of Johnstone—who was recalled partly on account of his policy—and remained a source of embarrassment to future provincial and Indian officials.

Notwithstanding the politico-military strife in the province the completion of the machinery of civil government was

¹⁰⁸ Stuart to Pownall, August 24, 1765, in Lansdowne manuscripts, vol. 60; *Mississippi provincial archives*, 1: 524. See also Alvord, *Mississippi valley in British politics*, 2: 61 ff.

¹⁰⁹ The line had not been surveyed in 1770 on account of the war. Stuart to Durnford, January 4, 1770, Public record office, colonial office papers, 5.87.

¹¹⁰ *Mississippi provincial archives*, 1: 511.

¹¹¹ *Ibid.*

¹¹² Gage to Taylor, December 18, 1766, in Canadian archives, B. 2-2: 137; Shelburne to Stuart, September 13, 1766, Lansdowne manuscripts, vol. 53.

¹¹³ Shelburne to Grant, December 11, 1766, *ibid.*; Stuart to Haldimand, June 7, 1767, Canadian archives, B. 11: 281.

undertaken. Already the necessary courts of justice had been set up, including courts of ordinary chancery, admiralty, and the supreme court, the last named consisting of the governor and council.¹¹⁴ On August 18, 1766, moreover, the governor in accordance with the provisions of the proclamation of 1763 and "in consideration of the Want of Several Laws adapted to the Constitution" of the province, and in response to a petition from the jurors of the assizes of Pensacola and of the inhabitants of Mobile, issued a proclamation¹¹⁵ calling for the election of the first representative assembly in West Florida. The population was yet small, Johnstone's estimate, which was probably too optimistic, in that year placing it at from eighteen hundred to two thousand.¹¹⁶ At the time of the occupation in 1763 the English officers in command reported the population as hardly worthy of a settled government.¹¹⁷ In view of the small number of freeholders, therefore, the governor announced that the head of every household should have the privilege of a voice in the selection of representatives. The province was divided into three electoral districts, that of Pensacola, including all the territory east of the Perdido river except the township known as Campbelltown, which formed the second electoral district, and that of Mobile, comprising all the territory to the west of the Perdido river. Pensacola and Mobile each were entitled, by the governor's proclamation, to six representatives, and Campbelltown to two.¹¹⁸

Elections were held in the three districts and on November 3, the day appointed in the governor's proclamation, the members elect gathered in Pensacola, where the necessary oaths were administered by the council, after which this second branch of the assembly was formally organized by the selection of Francis Pousset as speaker.

In the course of perfecting its organization, however, it became necessary for the assembly to pass upon the merits of a

¹¹⁴ Sidgwick to Gordon, January 7, 1765, Public record office, colonial office papers, 5.574.

¹¹⁵ Minutes of the first assembly of the province of West Florida, manuscript in general land office, Washington, D. C.

¹¹⁶ *Mississippi provincial archives*, 1: 444.

¹¹⁷ *Ibid.*, 1: 142.

¹¹⁸ Minutes of the first assembly of the province of West Florida.

contested election in Campbelltown, the smallest of the three districts.¹¹⁹ Among the first committees appointed was that on privileges and elections; it was to this committee that there was referred the petition of Dr. John Lorimer of Pensacola, who appeared to be an unsuccessful candidate for assemblyman from Campbelltown, his opponent, David Williams, having been granted a certificate of election by the deputy provost marshal. In Lorimer's petition it was alleged that despite the fact that the face of the returns gave him a clear majority, the marshal had "taken upon himself by the Sole advice of the said David Williams or his friends, to alter the said poll in such a manner that he might return the said David Williams as member for said township" On the basis of the committee's report, and after hearing the testimony of the candidates, the house expelled Williams and awarded the seat to Lorimer. At the same time Williams was called before the bar of the house and reprimanded for his insolence, and the marshal who issued the false return was discharged from office.¹²⁰

No very great significance may be attached to the enactments in this first session of the legislature. They reflect something, however, of the conditions of the province which were apparently similar to the early beginnings of every government. Acts were passed by the council and assembly providing for the regulating of servants, the clearing of the town of Mobile of offensive weeds, and for cleaning the streets of Pensacola.¹²¹ A code regulating negroes and slaves was deemed necessary and enacted, and acts restraining drunkenness and regulating the sale of liquor were passed. A law designed to encourage foreigners to settle in the province was enacted early in the first session of the assembly. Grants of duties to be applied towards supporting the government of the province were likewise made. The assembly was prorogued by the governor on January 3, 1767, to February 23. On the whole the relations between the house and the executive were not unfriendly. No very serious controversies developed, if we may judge from the minutes of the assembly. This appears in striking contrast to the gov-

¹¹⁹ Minutes of the first assembly of the province of West Florida.

¹²⁰ *Ibid.*

¹²¹ *Ibid.*

ernor's relations to other branches of the public service in the colony.

The turmoil in the province was greatly minimized by the recall of Governor Johnstone early in 1767. The history of the province in the successive periods of military and civil régimes is a record of mismanagement, conflicts of jurisdiction, and petty quarrels. The British government intended West Florida as a home for the surplus population of the older colonies, and as a possible source of profit for Great Britain. Nevertheless the generally unfavorable conditions, as reflected in the facts above narrated, augured poorly for the early prosperity of the province. The population remained scanty, commerce had not yet developed satisfactorily, Indian relations had not been fully adjusted and the civil government was still in the experimental stage.

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